



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/916,002

07/26/2001

Hidetoshi Ichioka

450100-03360

1131

20999 7590 10/14/2008
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

SHEPARD, JUSTIN E

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

10/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/916,002

Applicant(s)

ICHIOKA, HIDETOSHI

Examiner

Justin E. Shepard

Art Unit

2424

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/20/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/20/08 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1 and 3 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of rescheduling the exhibition of

not viewed content immediately after the exhibition of currently scheduled content could not be found in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood in view of Grauch in view of Connelly in view of Ten Kate in view of Entwistle in view of Herz.

Referring to claim 1, Wood discloses a content-exhibition control apparatus for exhibiting content in another apparatus (figs. 8 and 9; [0049]; [0050]),

comprising: generating means for generating degree-of-exposure control data used to control the degree of exposure of the content; exhibition control means for controlling the exhibition of the content recorded in the another apparatus according to the degree- of-exposure control data generated by the generating means; (by clicking a name in the channel guide, a dot is placed on the screen and the program is recorded, thereby controlling the 'degree-of-exposure' [0049]; fig. 8; by specifying all shows in a series to be recorded, a double dot is displayed and also controls the 'degree-of-exposure'; fig. 9; [0050]);

obtaining means for obtaining the state data of the content sent from the another apparatus (the "state data" is reflective of whether a single program or all shows in a series are recorded; figs. 8 and 9; [0049]; [0050]),

wherein the generating means generates the degree-of exposure control data according to the state data of the content, obtained by the obtaining means (the 'degree-of- exposure' is dependent on the number of dots displayed, which is displayed according to the 'state data' or whether the show or series is to be recorded figs. 8 and 9; [0049]; [0050]);

storing means (104) for storing user information which includes user preferences with the state data (a user criteria indicates whether a single program or all shows in a series are recorded, wherein the user criteria of preferences is stored) the content collected from a hard-disk recorder in a customer database (fig. 4, el. 403; [0042-0044]; [0049- 0050]); and

feedback means for feeding back said degree of exposure of the content (paragraph 53, lines 6-14),

Wood does not disclose an apparatus wherein an audience rating and an advertisement effect are calculated as a function of the feedback data; and wherein only the number of times reproduction is to be performed is specified in a degree of exposure designation and the degree of exposure designation is updated when rescheduling is performed; and

with scheduling means for scheduling the exhibition of the content, wherein state data includes information on viewed content and not viewed content; and rescheduling

means for rescheduling the exhibition of not viewed content immediately after the exhibition of currently scheduled content;

wherein the not viewed content is rescheduled repeatedly until it is viewed.

In an analogous art, Grauch teaches an apparatus wherein an audience rating and an advertisement effect are calculated as a function of the feedback data (column 20, lines 37-54; column 21, lines 29-38).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the advertisement rating taught by Grauch to the apparatus disclosed by Wood. The motivation would have been to enable the advertisers to track which advertisements were actually being viewed (Grauch: column 21, lines 29-38).

Wood and Grauch does not disclose an apparatus wherein only the number of times reproduction is to be performed is specified in a degree of exposure designation and the degree of exposure designation is updated when rescheduling is performed; and

with scheduling means for scheduling the exhibition of the content, wherein state data includes information on viewed content and not viewed content; and rescheduling means for rescheduling the exhibition of not viewed content immediately after the exhibition of currently scheduled content;

wherein the not viewed content is rescheduled repeatedly until it is viewed.

In an analogous art, Connelly teaches an apparatus wherein only the number of times reproduction is to be performed is specified in a degree of exposure designation

and the degree of exposure designation is updated when rescheduling is performed (column 7, lines 3-13).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the reproduction counting taught by Connelly to the apparatus disclosed by Wood and Grauch. The motivation would have been to keep an accurate count of the user's behavior so that future recorded programs would better suit the user's taste.

Woods, Grauch and Connelly do not disclose an apparatus with scheduling means for scheduling the exhibition of the content, wherein state data includes information on viewed content and not viewed content; and rescheduling means for rescheduling the exhibition of not viewed content immediately after the exhibition of currently scheduled content;

wherein the not viewed content is rescheduled repeatedly until it is viewed.

In an analogous art, Ten Kate teaches an apparatus with scheduling means for scheduling the exhibition of the content, wherein state data includes information on viewed content and not viewed content; and rescheduling means for rescheduling the exhibition of not viewed content immediately after the exhibition of currently scheduled content (column 2, lines 21-52).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the program rescheduling method taught by Ten Kate to the apparatus disclosed by Woods, Grauch and Connelly. The motivation would have been to enable the system to fill in dead spots of the programming lineup with programs that the viewer would be interested in (Ten Kate: column 2, lines 21-52).

Woods, Grauch, Connelly, and Ten Kate do not disclose an apparatus wherein the not viewed content is rescheduled repeatedly until it is viewed.

In an analogous art, Entwistle teaches an apparatus wherein content is rescheduled repeatedly (column 1, lines 46-58).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the content repeating taught by Entwistle to the apparatus disclosed by Woods, Grauch, Connelly and Ten Kate. The motivation would have been to enable the user to have more exposure to the content that they are interested in.

Woods, Grauch, Connelly, Ten Kate and Entwistle do not disclose an apparatus wherein viewed content is no longer scheduled.

In an analogous art, Herz teaches an apparatus wherein viewed content is no longer scheduled (column 41, lines 34-43).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the descheduling taught by Herz to the apparatus disclosed by Woods, Grauch, Connelly, Ten Kate and Entwistle. The motivation would have been to enable the device to not schedule repeat programming, when the viewer wasn't interested in it.

Claim 3 is rejected on the same grounds as claim 1.

Referring to claim 2, Wood discloses the degree-of-exposure control data includes a content ID (name of the program; figs. 8 and 9; [0049]; [0050]),
an exposure type (recorded or not recorded figs. 8 and 9; [0049]; [0050]),
and an exposure value (single or double dot figs. 8 and 9; [0049]; [0050]);

and the state data of the content includes a viewing condition and a degree-of-exposure condition (the 'viewing condition' is whether the program will be recorded and available for future viewing', the display of dots figs. 8 and 9 is the 'degree-of-exposure' of the 'state data,' or whether or not the program will be/has been recorded'; [0049]; [0050]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
Unit 2623

JS